

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott  
Edward A. Garvey  
Marshall Johnson  
LeRoy Koppendrayer  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of Qwest Wholesale Service  
Quality Standards

ISSUE DATE: August 2, 2002

DOCKET NO. P-421/M-00-849

ORDER SCHEDULING COMMENTS AND  
REPLY COMMENTS

**PROCEDURAL HISTORY**

**The Qwest Wholesale Service Quality Docket**

On March 17, 1997 in the AT&T/MCI consolidated arbitration case, the Commission issued its ORDER RESOLVING ISSUES AFTER RECONSIDERATION AND APPROVING CONTRACT. Among other things, this Order opened an investigation into the service quality standards (Direct Measures of Quality or DMOQs) to be used by U S WEST for interconnection, resale, and the purchase of unbundled network elements under the AT&T and the MCI metro agreements. Docket No. P-442,5321,421/CI-97-381, the DMOQ Docket.

Subsequent negotiations between Qwest, AT&T, and MCI WorldCom were unsuccessful and so AT&T and MCI WorldCom asked the Commission to allow the Regional Oversight Committee's test of Qwest's Operation Support Systems (ROC OSS test) to resolve the disputed performance standards.

On October 19, 1999, therefore, the Commission closed the DMOQ Docket (97-381) and stated that it would resume its consideration of these issues upon completion of the ROC OSS test.

Contemporaneous with the ROC process, decisions in two other proceedings affected the Commission's efforts to develop performance measures, standards, and remedies:

- First, on June 28, 2000, the Commission approved the settlement and stipulation in the US

WEST- Qwest merger: Docket No. P-3009,3052,5096,421,3017/PA-99-1192. In its Order approving the merger, the Commission required the company to 1) file proposed wholesale service quality standards, 2) participate in an expedited proceeding to set permanent wholesale service quality standards, and 3) waive any right to a contested case proceeding in that filing. The current proceeding, Docket No. P-421/M-00-849 also known as the **Qwest Wholesale Service Quality Docket**, is a result of that Order.

- Second, on August 15, 2000, in response to an AT&T complaint regarding long distance access service quality (Docket No. P-421,C-99-1183), the Commission determined that it would investigate the need for special access service quality standards for Qwest in concert with the **Qwest Wholesale Service Quality Docket**.

On October 31, 2000, the Commission

1) determined that the issues in the closed DMOQ proceeding (97-381) would also be addressed in the **Qwest Wholesale Service Quality Docket**;

2) established a 60 day period for what became known as the CLEC/Agency Coalition (Coalition) to develop proposals; and

3) established a 45 day period for Qwest to respond to the proposals. All parties proposed and the Commission agreed that upon receipt of the filings the Commission would use its customary process (Commissioners hearing oral argument from the parties and questioning the parties) with no pre-filed or live witness testimony and cross-examination, but with experts available for consultation.

On February 21, 2001, the Competitive Local Exchange Carriers (CLECs) Coalition and Qwest submitted a joint request for a Commission meeting to discuss and clarify the procedures that would be used to develop the record in this proceeding.

On March 19, 2001, the Commission referred the matter to the Office of Administrative Hearings (OAH) for mediation and record development. Administrative Law Judge (ALJ)/now Commissioner Reha was assigned to the matter.

On April 20, 2001, the CLEC Coalition and Qwest filed comments. From April 30 through May 31, September 24 and 25, and October 5 and 8, 2001, ALJ/Commissioner Reha facilitated proceedings to develop the record.

On March 4, 2002, the Commission issued its **ORDER SETTING REPORTING REQUIREMENTS AND FUTURE PROCEDURES**. In that Order, the Commission deferred further action on the development of wholesale service quality standards pending a staff report and recommendation. The Commission requested the staff report 30 days from the date of the

February 5, 2002 meeting and authorized a 21-day comment period .<sup>1</sup>

On April 3, 2002, Commission staff issued its report and comments were received from the CLEC Coalition, AT&T, WorldCom, and Qwest on April 24, 2002.

The Commission met to consider this matter on June 20, 2002.

## **FINDINGS AND CONCLUSIONS**

On June 20, 2002, the Commission considered action in two closely-related dockets regarding Qwest's wholesale performance:

- 1) the docket under consideration in this Order, the Qwest wholesale service quality proceeding, which seeks to establish standards and remedies for Qwest's performance in providing wholesale services to CLECs; and
- 2) Docket No. P-421/M-01-1376 dealing with Qwest's performance assurance plan (PAP), a plan whose purpose is to assure appropriate wholesale performance by Qwest and to provide consequences where its performance fails to meet that standard.

Both proceedings seek to establish ways to measure Qwest's wholesale performance and establish consequences where Qwest's performance fails to meet certain levels.

While the current docket (the wholesale service quality proceeding) is the older of the two dockets, a Commission decision in the PAP docket (01-1376) is more immediately pressing since Qwest will very likely file a PAP proposal as part of its Section 271 filing with the FCC in the near future. Since the Commission feels strongly that a meaningful PAP is a key element of any public interest finding regarding Qwest's 271 filing and since a Commission Order on this key public interest element is a more formal pronouncement than comments to the FCC regarding a PAP for Qwest, the Commission has proceeded to the merits of the PAP Docket (Docket No. P-421/M-01-1376) and issued an Order approving the same PAP for Qwest in Minnesota that the Colorado Public Utilities Commission adopted for Qwest in Colorado on March 27, 2002. The Commission

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<sup>1</sup> In the March 4, 2002 Order, the Commission also required Qwest to report performance data regarding wholesale special access services as requested by WorldCom - Time Warner Telecom. The Commission required that monthly reporting begin this June. On March 19, 2002, Qwest requested that the Commission reconsider its March 4, 2002 Order. In its May 29, 2002 ORDER DENYING RECONSIDERATION AND MODIFYING ORDER ON OWN MOTION, the Commission denied Qwest's request but clarified on its own motion certain aspects of the reporting requirements.

found that the Colorado PAP appropriately guards against Qwest's incentive as the incumbent to provide substandard service to its competitors.<sup>2</sup>

As to the current docket (wholesale service quality standards for Qwest), the Commission notes the possibility that the Colorado PAP adopted in the Commission's July 29, 2002 Order in Docket No. P-421/M-01-1376 may in large part also serve as the basis for wholesale service quality standards in the current docket. In any event, the Commission's consideration of wholesale service quality standards for Qwest will surely be significantly informed by the Commission's ultimate resolution of the PAP Docket.

Accordingly, the Commission will temporarily defer consideration of the current docket and request comments from the parties following the final Order in the PAP Docket to further develop the record. In the meantime, the current DMOQ system remains in effect.

### **ORDER**

1. Within 30 days of the Commission's final Order in Docket No. P-421/M-01-1376, the parties shall file comments regarding the merits of adopting the Colorado Performance Assurance Plan as the wholesale service quality standards for Qwest.
2. Reply comments shall be due 14 days thereafter.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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<sup>2</sup> See *In the Matter of Qwest's Performance Assurance Plan*, Docket No. P-421/CI-01-1376, ORDER ADOPTING PLAN AND SETTING FURTHER PROCEDURAL SCHEDULE (July 29, 2002).